

members submit a repo transaction to either GSCC or another registered or exempted clearing agency. The Commission believes that such a requirement is consistent with the Act's goal of establishing a national system for the clearance and settlement of securities by including more trades within the system.²⁹

Currently, GSCC will not accept same-day settling repo legs or open repos. The Commission understands that GSCC needs to study further the risk involved with such repos and to modify its systems in order to process these trades in a safe and efficient manner. The Commission believes that the current limitations on eligible transactions are appropriate.

The one adverse commenter argued that GSCC's system does not comply with FASB's Interpretation No. 41 because GSCC does not novate the trades.³⁰ The Commission believes that the commenter mischaracterizes GSCC's netting process. Pursuant to Section 6 of GSCC's Rule 11, all obligations between netting members are terminated at the time a report of such positions and obligations are made available to members and are replaced by obligations to deliver to and/or to receive from GSCC securities and payments.

The adverse commenter also argues that GSCC's repo volatility factor should take into account a three standard deviation move instead of a two standard deviation move.

Contrary to the commenter's statement, GSCC does not rely upon a two standard deviation movement. Instead, the current minimum repo volatility factor of fifty basis points exceeds the largest one day movement (forty-one basis points) in all general collateral repos.³¹

The commenter also argues that GSCC does not have sufficient liquidity through a third party credit line and does not limit the positions of members. In its release announcing standards for the registration of clearing agencies, the Commission stated that a clearing agency should establish an appropriate level of clearing fund contributions based on the risks to which it is

subject.³² The purpose of the clearing fund is to enable a clearing agency to meet its obligations to its participants. The Commission believes that by revising its clearing fund formula to take into account repo activity, GSCC will have sufficient liquidity to provide for the safeguarding of securities and funds. Further, GSCC's clearing fund is based upon each member's level of trading activity.³³ Thus, GSCC will collect payments from members in proportion to their trading activity.

Nonetheless, the Commission believes it is appropriate for GSCC to review its liquidity needs and resources after it has experience operating the repo netting system. Accordingly, GSCC has agreed to conduct a study of its liquidity resources within a year after implementing this service, and to provide a copy of such study to the Commission.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with Section 17A(b)(3)(F) of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-GSCC-95-02) be, and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.³⁴

Margaret H. McFarland,
Deputy Secretary.

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waivers of Compliance

In accordance with 49 CFR 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received from the American Railway Car Institute (ARCI) a request for waiver of compliance with certain requirements of the Railroad Power Brakes and Drawbars Regulations. The petition is described below, including the regulatory provisions involved, the

nature of the relief being requested and the petitioner's arguments in favor of relief.

American Railway Car Institute (ARCI)
(FRA Waiver Petition Docket Number PB-95-3)

The ARCI seeks a permanent waiver of compliance from section 232.2 of the Railroad Power Brakes and Drawbars Standards (49 CFR Part 232). That section states in part: "The maximum height of drawbars for freight cars—shall be 34½ inches, and the minimum height of drawbars for freight cars on such standard-gauge railroads—shall be 31½ inches—ARCI is requesting to increase the maximum allowable coupler height one inch from 34.5 inches to 35.5 inches for bottom shelf E couplers and top and bottom shelf E couplers only. ARCI states that the granting of this waiver will allow railroads and car builders to build safer and more efficient cars. It claims industry's need for safer suspension systems is being hampered by the small range of allowable coupler heights. Railroads, truck manufacturers, and freight car manufacturers know that rail worthiness of many cars would be improved if spring travel could be increased. For example, cars negotiating changes in super-elevation as they enter and exit curves would be subject to less wheel unloading if they had softer, more compliant, longer travel suspensions. Wheel unloading is most undesirable in curves, as the wheel set is often developing high lateral forces. High lateral forces combined with wheel unloading can result in derailment. The small range of allowable coupler heights severely limits the use of longer travel springs. By increasing the allowable range of coupler height of one inch would allow designers to make a significant improvement in rail worthiness.

FRA has determined that a public hearing will be held in this matter. Accordingly a public hearing is hereby set for 10 a.m. on January 10, 1996, Room 3328 in the Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

The hearing will be an informal one and will be conducted in accordance with Rule 25 of the FRA Rules of Practice (49 CFR Part 211.25), by a representative designated by the FRA. The hearing will be a nonadversary proceeding in which all interested parties will be given the opportunity to express their views regarding this waiver petition.

Interested parties are also invited to participate in these proceedings by submitting written views, data or

²⁹ 15 U.S.C. 78q-1(a)(2)(A) (1988).

³⁰ The commenter noted that although Price Waterhouse LLP issued an opinion stating that GSCC members would be allowed to offset for financial statement purposes positions in repos, this opinion is based on GSCC's description of the novation process by which GSCC becomes the counterparty. Letter from Barry E. Silverman, *supra* note 4, referring to a letter from Price Waterhouse LLP to GSCC (May 30, 1995).

³¹ In contrast, a two standard deviation movement is equal to ten basis points.

³² Securities Exchange Act Release No. 16900 (June 17, 1980), 45 FR 41920.

³³ While the commenter suggests that in its repo clearing system it establishes trading limits for all participants, such limits only prohibit additional trading activity that is not margined (*i.e.*, the commenter requires that a participant submit additional margin in order to submit additional trades).

³⁴ 17 CFR 200.30-3(a)(12) (1994).

comments. All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Number PB-95-3 and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590. Communications received by January 17, 1996 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m. to 5 p.m.) in Room 8201, 400 Seventh Street SW., Washington, DC 20590.

Issued in Washington, DC on November 27, 1995.

Phil Olekszyk,

Deputy Associate Administrator for Safety Compliance and Program Implementation.

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[FRA Docket No. RST-95-3]

Petition for Exemption or Waiver for Cant-Deficient Passenger Train Operation; New York State Department of Transportation

In accordance with 49 CFR 211.41, notice is hereby given that the New York State Department of

Transportation (NYDOT) has submitted a petition, dated October 16, 1995, for a waiver of compliance with certain requirements of Title 49, Code of Federal Regulations, Part 213: Track Safety Standards.

The purpose of the petition is to secure approval from the Federal Railroad Administration (FRA) for the operation of certain types of passenger trains at curve negotiating speeds producing up to eight inches of cant deficiency (superelevation underbalance). Currently, section 213.57(b) of the Track Safety Standards limits cant deficiency to not more than three inches. (For a detailed discussion of cant deficiency, see 52 FR 38035, October 13, 1987). It is stated in the petition that: "The Petitioner represents the People of the State of New York and their interest in maximizing the efficiency and safety of the state's transportation system, to the benefit of the economy and general welfare."

The petition envisions the operation of modified, so-called Rohr RTL-2 "Turboliner" trainsets within the Empire Corridor, New York City to Niagara Falls. Tracks that would support this proposed train operating scenario are owned by Conrail, Metro North Commuter Rail and the National Railroad Passenger Corporation (Amtrak). The petition focuses attention on passenger rolling stock controlled by Amtrak.

Interested parties are invited to participate in these proceedings by

submitting written views, data or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, the party should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Number RST-95-3) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. Communications received within 45 days of publication of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m. to 5:00 p.m.) in Room 8201, 400 Seventh Street SW., Washington, D.C., 20590.

Issued in Washington, D.C. on November 20, 1995.

Phil Olekszyk,

Deputy Associate Administrator for Safety Compliance and Program Implementation.

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